

# NavyTimes

## \$25M claim filed in baby's death at Naval Hospital Guam

By Chris Amos - Staff writer  
Posted : Friday Oct 26, 2007 15:41:15 EDT

A Navy couple on Guam filed a \$25 million claim against the service Monday, alleging malpractice by a Navy doctor and Navy midwife led to the death of their son.

Both the doctor and midwife were previously implicated in separate wrongful death cases at Naval Hospital Jacksonville, Fla., within the past five years, according to the medical malpractice lawyer who filed the claim.

The Federal Tort Claims Act allows military families to sue the U.S. government for negligence in cases of death or injury suffered by non-active-duty family members. When a tort claim is filed, the government has six months to decide whether it is valid, and if so, how much to pay out. If the government takes no action or denies the claim, the claimant may file a lawsuit.

The current case centers on the treatment of Damien Hudson, who was stillborn July 31 at Naval Hospital Guam. It was the third maternity ward death in 45 days at the hospital, where an average of 39 babies are born per month, according to hospital commanding officer Capt. Robert Kellogg.

In the two other cases, a woman died during delivery and a second baby was stillborn. Kellogg said investigative teams from within and outside the hospital have conducted inquiries in each death, but he declined to discuss the teams' findings, citing federal privacy laws.

Damien's parents, Electrician's Mate 1st Class (SW) Shelly-Ann Hudson and her husband, David Hudson, filed a federal tort claim with the Office of the Judge Advocate General, Tort Claims Unit Norfolk, Va., alleging that Cmdr. Cynthia Wilkes, the doctor, and Capt. Patricia McDonald, the midwife, took three hours to properly diagnose fetal heart irregularities that caused the baby's death.

In an affidavit attached to the claim and provided to Navy Times, a Florida-based board-certified obstetrician, Steven Pliskow, says the baby would likely have survived if appropriate steps — including oxygen therapy, intravenous fluid hydration and immediate cesarean delivery — had been taken.

Officials at Naval Medical Center San Diego, which oversees Naval Hospital Guam, were unavailable for comment Tuesday afternoon. Officials at the Navy's Bureau of Medicine and Surgery declined to comment on the claim and referred questions to San Diego.

In 2002, the Navy settled a malpractice claim involving Wilkes for \$1 million after she admitted she had not read a woman's medical chart before performing a hysterectomy on her. Wilkes, then a lieutenant commander, said she would not have operated on Jocelyn Foster if she had read her chart because the woman's history of abdominal surgery called for a more experienced surgeon.

Foster developed an infection from damage to her small intestine during the surgery and died six weeks later.

In an unrelated case, Sean Cronin, a Jacksonville, Fla., medical malpractice lawyer who represents the Hudsons, filed a separate \$75 million tort claim against McDonald, the midwife, Jan. 24. The Navy has yet to respond to the claim, he said, adding that he intends to file a federal lawsuit within weeks.

According to that claim, McDonald and other health care providers at Naval Hospital Jacksonville and Naval Clinic Mayport failed to diagnose bacterial meningitis in Stephanie Starecheski, a pregnant Navy dependent, during "numerous visits" to the hospital. Starecheski was prescribed cold medication and died; her son was delivered by emergency cesarean and survived, Cronin said.

JACKIE KING  
MANAGER

Courthouse, Room 107  
Cordele, Georgia 31093  
Phone: (229) 276-2366  
FAX: (229) 276-2734  
Email: vkling@vs.state.ga.us

David Foster

Department of Veterans Service

